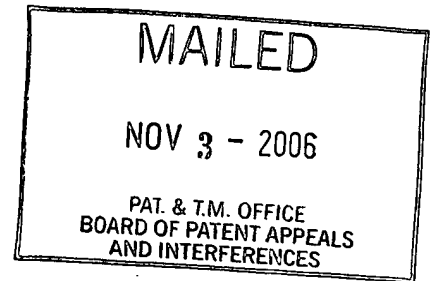


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte BRUCE R. DAVID
and WILLIAM J. RUSHIN

Application No. 09/851,849



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on October 2, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below.

On January 27, 2006, appellants filed an Appeal Brief under 37 CFR § 41.37. A review of the file reveals that the "Summary of Claimed Subject Matter," as required by § 41.37(c)(1)(v), is not properly set forth. 37 CFR § 41.37(c)(1)(v) specifies:

(v) ***Summary of claimed subject matter.*** A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

As indicated, the disclosure must be mapped to the independent claims, here claims 1, 12, 22, and 24, including specification page and line numbers, and drawing reference characters.

Accordingly, it is

ORDERED that the application is returned to the Examiner:

- 1) to hold the Appeal Brief of January 27, 2006 defective;
- 2) notify applicants to file a substitute Appeal Brief in compliance with the 37 CFR § 41.37;

- 3) for the examiner to consider the substitute Appeal Brief, and if necessary, vacate the examiner's answer mailed April 14, 2006, and issue a revised Examiner Answer in accordance with the new rules effective September 13, 2004; and
- 4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

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